

### **REMARKS**

The present response is responsive to the Office Action mailed May 1, 2009. A Request for Continued Examination, and Petition to Revive an Unintentionally Abandoned Application, and fees are concurrently filed with this paper. After entry of the present response, independent claims 26, 48, 58, and 118 have been amended to clarify the scope of the claimed inventions of claims 26, 48, 58, and 118.

The Office Action requires restriction of the application as follows:

- Invention I: Claims 26-47;
- Invention II: Claims 48-57;
- Invention III: Claims 58-84;
- Invention IV: Claims 118-121; and
- Invention V: Claims 122-129.

Assignee hereby provisionally elects, with traverse, Invention Group III, claims 58 - 84, which the Office Action indicates is “drawn to a computer-controlled negotiable instrument system for a licensed money transmitter that maintains a network of agent terminals, an account maintained at the financial institution on behalf of the licensed money transmitter for receipt of direct deposits, an account sweep control module run by the computer system responsive to a notification received via the data communications interface from the financial institution indicating the direct deposit of funds, communicating a debit posting message, crediting the predetermined deposit amount to a transaction account, a transaction control module run by the computer system operative in response to a request from a requesting source, determining whether the balance in the transaction account is associated with the particular individual, posting a debit of the requested predetermined amount in response to the receipt from the agent terminal of a notification, classified in class 705, subclass 42.” (Office Action, pages 3-4). Assignee wishes to clarify that claims 58 - 84 actually relate to “A computer-controlled negotiable instrument payment system for negotiable instrument transactions conducted by a particular individual based on the direct deposit of funds at a regulated financial institution at which the particular individual does not maintain an account.”

Assignee hereby traverses the election requirement as improper. The M.P.E.P. requires two criteria for a proper requirement for restriction between patentably distinct inventions: (A) the inventions must be independent; and (B) there would be a serious burden on the examiner if the restriction is not required. *See* M.P.E.P. Section 803(I). The Election / Restriction Requirement alleges that the inventions have different scopes, different modes of operation, and thus yield different effects and are not capable of use with each other. *See* pages 6-7. In response to the Election / Restriction Requirement, each of the alleged invention groups (I-V) includes at least one common technical feature that is a contribution over the prior art, and thus it would not be an undue burden to examine the claims in full. That is, at least one common technical feature is the ability of the invention groups to permit a licensed money transmitter to accept from its customers prepayments for negotiable instruments using an account at a financial institution and a transaction account maintained by the licensed money transmitter. For example, in claim 26 of alleged Invention Group I, the “payment system of a licensed money transmitter” comprises at least an account, a transaction account, the financial institution, and the licensed money transmitter. Similarly, in claim 48 of Invention Group II, the “method for a licensed money transmitter” comprises at least at the financial institution, detecting a direct deposit of funds to the account, and sweeping the total amount of the direct deposit of funds into a transaction account associated with the licensed money transmitter. Similarly, in claim 58 of Invention Group III, “a computer-controlled negotiable instrument payment system” comprising at least a licensed money transmitter, an account maintained at the financial institution, and a transaction account. Similarly, in claim 118 of Invention Group IV, “a method for a licensed money transmitter” comprises at least certain actions performed “at an agent of the licensed money transmitter” and “at the financial institution” with respect to an account and transaction account. Similarly, in claim 122 of Invention Group V, “a computer-controlled negotiable instrument payment system” comprises at least a computer system controlled by a licensed money transmitter in communications with a transaction system of a financial institution, wherein an account and transaction account are manipulated by certain elements.

Because the five groups of claims share a common technical feature that is a contribution over the prior art, there would be no serious burden on the Patent Office to search and/or examine each of the groups of claims. Accordingly, the restriction requirement for the groups of

claims should be withdrawn.

Claims 26-84, and 118-129 therefore should be considered together in this application.

### **CONCLUSION**

The Attorney for Assignee believes he has responded to each matter raised in the Election / Restriction Requirement. Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned attorney so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

Respectfully submitted,

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